

REMARKS

Claims 1, 2, 4-5, 7, 9-10, 12-14, 17, and 22 are amended. No new matter is added by these amendments. Claims 6 and 18 are canceled without prejudice or disclaimer. Claims 1-5, 7-17, and 19-25 are pending. By amending and canceling the claims, applicant is not conceding that the claims are unpatentable over the references cited by the Office Action and is not conceding that the claims are non-statutory under 35 U.S.C. 101, 102, 103, and 112, as the claim amendments are only for the purpose of facilitating expeditious prosecution. Applicant respectfully reserves the right to pursue the subject matter of the claims as it existed prior to any amendment or cancellation and to pursue other claims in one or more continuation and/or divisional applications. Applicant respectfully requests reconsideration and allowance of all claims in view of the amendments above and the remarks that follow.

35 U.S.C. 103 Rejections

Claims 1-25 are rejected under 35 U.S.C. 103(a) as unpatentable over Yamato (US Patent Number 7,257,316) in view of Rodriguez (US Patent Number 7,120,922) and Horowitz (US Patent Number 6,987,889). Applicant respectfully submits that the claims are patentable over Yamato, Rodriguez, and Horowitz because Yamato, Rodriguez, and Horowitz do not teach or suggest all elements of the claims for the reasons argued below.

Claim 1 recites: “the respective importance of each of the plurality of criteria are different,” which is not taught or suggested by Yamato, Rodriguez, and Horowitz for the reasons argued below.

Yamato selects programs for compression based on “the number of compressions” and the “duration ... from when the previous compression is made” (column 7, lines 25-50). Yamato at column 9, lines 54-57 further recites: “the programs may be classified based on an importance of each program and according to the importance, different re-compression periods and different encoding methods may be

ROC920030372US1  
10/760,447

12

used." Thus, Yamato uses its "importance" to change the values of the re-compression periods and encoding methods, but not to change the treatment of its selection criteria of the number of compressions and duration, which are both treated equally, as can be seen in Yamato at Fig. 11, blocks 113, 114, 115, and 116. Thus, Yamato does not teach or suggest "the respective importance of each of the plurality of criteria are different," as recited in claim 1.

Rodriguez uses viewing time and viewing frequency, but Rodriguez treats them both equally by incrementing scores "by values that are proportional or correlated to the times and/or frequency that the DHCT 200 provides a service having respective viewing parameters," as described by Rodriguez at column 24, lines 45-48. Thus, Rodriguez also does not teach or suggest "the respective importance of each of the plurality of criteria are different," as recited in claim 1.

Horowitz is directed to compression and does not teach or suggest criteria or an importance of criteria.

Claim 1 further recites: "the calculating further comprises adding to the score for the respective program a result of the importance of the respective category criteria divided by the ranking of the respective category, adding to the score for the respective program a result of the age of the respective program divided by the importance of the age criteria, adding to the score for the respective program a result of the difference for the respective program divided by the importance of the difference criteria, and adding to the score for the respective program a result of the expected savings for the respective program divided by the importance of the expected savings criteria," which is not taught or suggested by Yamato, Rodriguez, and Horowitz for the reasons argued below.

The Office Action admits that Yamato does not calculate scores and relies on Rodriguez.

In contrast to claim 1, Rodriguez at column 7, lines 37-39 recites: "a preference tracking database 391 may contain scores that are correlated to the duration and/or

ROC920030372US1  
10/760,447

13

frequency that a DHCT 200 presents services having certain viewing parameters.” In further contrast to claim 1, Rodriguez at column 24, lines 42-48 recites: “the scores 3011, 3012, and 3013 may each be incremented by a value equal to 1 point where each point corresponds to one hour. In an alternative embodiment, scores are incremented by values that are proportional or correlated to the times and/or frequency that the DHCT 200 provides a service having respective viewing parameters.” In further contrast to claim 1, Rodriguez at column 24, line 67 through column 25, line 3 recites: “the DHCT 200 presents an NFL game, the score 3021 may be incremented by 3 points to account for the DHCT 200 being tuned to a sports television service for 3 hours on a Sunday.”

Thus, in contrast to claim 1, Rodriguez merely increments its scores in proportion to viewing times and frequency and has no notion of dividing a importance by a ranking or of dividing an age, difference, or expected savings by an importance, so Rodriguez does not teach or suggest “adding to the score for the respective program a result of the importance of the respective category criteria divided by the ranking of the respective category, adding to the score for the respective program a result of the age of the respective program divided by the importance of the age criteria, adding to the score for the respective program a result of the difference for the respective program divided by the importance of the difference criteria, and adding to the score for the respective program a result of the expected savings for the respective program divided by the importance of the expected savings criteria,” as recited in claim 1.

Horowitz is directed to compression and does not teach or suggest scores for programs. Thus, Yamato, Rodriguez, and Horowitz do not teach or suggest “adding to the score for the respective program a result of the importance of the respective category criteria divided by the ranking of the respective category, adding to the score for the respective program a result of the age of the respective program divided by the importance of the age criteria, adding to the score for the respective program a result of the difference for the respective program divided by the importance of the difference criteria, and adding to the score for the respective program a result of the expected

ROC920030372US1  
10/760,447

14

savings for the respective program divided by the importance of the expected savings criteria," as recited in claim 1.

Claims 7, 12, 17, and 22 include similar elements as argued above for claim 1 and are patentable over Yamato, Rodriguez, and Horowitz for similar reasons. Claims 2-5, 8-11, 13-16, 19-21, and 23-25 are dependent on claims 1, 7, 12, 17, and 22, respectively, and are patentable over Yamato, Rodriguez, and Horowitz for the reasons argued above, plus the elements in the claims.

ROC920030372US1  
10/760,447

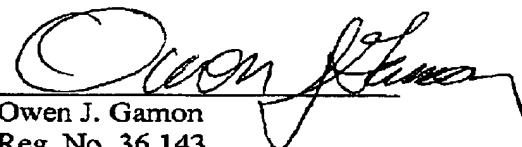
15

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is requested. The Examiner is invited to telephone Applicant's attorney (651-645-7135) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 09-0465.

Respectfully submitted,

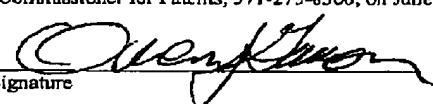
  
Owen J. Gamon  
Reg. No. 36,143  
(651) 645-7135

Date: June 2, 2008

IBM Corporation  
Intellectual Property Law  
Dept. 917, Bldg. 006-1  
3605 Highway 52 North  
Rochester, MN 55901

CERTIFICATE UNDER 37 CFR 1.8: I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or is being transmitted via facsimile to the Commissioner for Patents, 571-273-8300, on June 2, 2008.

Owen J. Gamon  
Name

  
Signature

ROC920030372US1  
10/760,447

16